

SPEECH
OF
Hon. A. S. HARDY

Attorney-General and Premier,

ON THE SECOND READING OF THE LICENSE BILL,

LEGISLATIVE ASSEMBLY, MARCH 30TH, 1897.

The Premier rose at a few minutes after five o'clock amid applause. He said :—I do not rise, Mr. Speaker, to follow my hon. friend, who has just taken his seat, (Mr. Marter) through his lengthy argument. I rise for another purpose, and if I allude to his arguments from time to time it will only be in so far as they have reference to points which I have under discussion or to show that they need no answer. The hon. gentleman started out by stating that there were no politics in this question, and that his attitude was not a political one, and yet he winds up an hour and a half's speech by quoting from some one who thinks that this Government "should be hurled from power," and all along in his address his climaxes were that this Government should be hurled from power. If that is not politics where shall we find them, and if his speech has been anything at all it has been political. His criticism has not been destructive of anyone but himself, and if I should follow him it would only be to show that he proved absolutely the position of the Government in relation to the question which I am about to argue by quotations from himself and from the prominent men whose names he has mentioned. The hon. gentleman states that the speech of the Treasurer was an apologetic speech. Never was there a less apologetic speech delivered upon the floor of this House, never a more aggressive and formidable speech, and my hon. friend has failed to wrestle with a single problem, proposition or sentence uttered by

the hon. the Treasurer. My hon. friend has quoted, too, a great many persons, but to what end? He says they are gentlemen for whom we have every respect. True enough. We do not profess to agree with every gentleman whom we respect and who speaks upon this question, admire him as much as we may. We do not profess to be able to enact into law every proposition which may be made. We do not profess to be able to carry out every programme where a programme is prepared in a meeting or convention, however meritorious, which represents but one view of this question, which states merely a proposition but does not bind anyone, which is not law, and which does not impose pains and penalties. No law can ever go so far as the most radical programme or as the resolutions of an association met for the particular purpose of representing one view or variety of views in relation to a great moral question. We are acting as practical legislators who are called upon to put abstract propositions into law and then to see that men act up to the laws we pass, and therefore when my hon. friend says that we have not done all that the Alliance and other branches advocated he only accuses us of failing to do that which no Government has ever been able to do or perhaps has attempted to do.

The Amended Bill.

My hon. friend quotes the amended Bill, and I am a little at a loss to know whether he is more dissatisfied with the amended Bill or the original Bill. He quotes some of the amendments and belittles them. I certainly do not share his views or appreciate his criticisms. There are no equal number of clauses upon the statute book of this country dealing with license questions under a license system as potent for good as four or five of those which are embodied in this bill. Take the twenty-one years' clause. This protects the young men. Many people object to that and say a man at eighteen should exercise his own discretion, and to a certain extent do as he pleases. But by the provisions of this Bill you throw around the hotelkeeper restrictions of a very formidable character as regards all men under twenty-one. My hon. friend says the word "apparently" is still left in. It has always been in since the clause had an existence.

Mr. MARTIN—I did not say so.

The Premier—Then I must have misunderstood him. This word "apparently" has always been left in; but we go further and say "or to the knowledge of the licensed person or of the person

supplying the liquor." That is a most important provision, because any person who has a boy under age has to do nothing more than notify the hotelkeeper that this boy is under twenty-one, and the hotelkeeper then has knowledge and is absolutely bound. What more could be done or asked? It is hypercritical to say that the word "apparently" is still in the Act. Then by the clause relating to "loitering or lingering in saloons," no young man will be permitted to loiter in a bar-room or place where liquor is sold, he himself being liable to a fine and imprisonment if he does, and the hotelkeeper being also liable. That is an enormous step forward, and if you add to it the clause relating to clubs, that no liquor shall be supplied to young men in clubs, no one can say that an enormous advance has not been made—the greatest steps that have been made in license legislation in this country. My hon. friend says that he never heard tell of liquor being supplied to young men in clubs. Then he must have shut his ears. I do not hesitate to say that every deputation which has waited upon the Government in the last ten years, which discussed the clubs, gave as their prime and principal reason, not that we should so much deal with full grown men who use these clubs as they would use their own houses, but that young men were tempted to drink and enabled to get supplies of liquor at these clubs to their great detriment. And yet my hon. friend says he never heard of it. He has been deaf or has forgotten that he heard of it. He says, further, that he never heard of any tippling at druggists'. My hon. friend says he does not go there. No person accuses him in that sense. The great mass of the druggists, those of good standing take care to keep the law and live within the privilege, but there are too many druggists, and the complaint is universal in the country and in the city, that there are many druggists, who use their liberty to sell six ounces without a license—to sell it not as a medicine but as a beverage with effervescing waters. No one who has any knowledge at all can doubt this for a moment. And it is to reach that class of druggists that our legislation is intended.

Then as to the "residential" clause. There has been some alteration made in the machinery under which a hotel situated in a residential quarter can be petitioned out of a license. A provision was asked that they might petition against any license each year, and they gave as a reason that they wished to reach hotels in residential quarters. That was the illustration, and it was to meet that illustration that the clause was framed. We have changed or

amended the machinery to this extent that it is now proposed that a majority of the voters in the subdivision shall be sufficient, and that a decision is to be given by the license board as to whether it is a hotel in a residential quarter before they proceed to obtain signatures to the petition. That will facilitate matters very much. As to the population limit, Rev. Mr. Courtice pointed out at the meeting with the delegation which waited upon the Government that perhaps there was not so much importance to be attached to that point, because he urged that you might raise the population limit so high that you will put great value on the license and give importance to licensees to such an extent that they could not be successfully attacked, and therefore we have left the population limit as it was suggested in the original Bill. The hours of selling have been left to the municipal councils, as asked by some of those who have been canvassing about the House.

A Record of Reform.

Put these provisions together with others in the Bill and you will find almost as formidable an array of important amendments grafted on a present large and important license system as it is possible to ask. (Hear, hear.) What did my hon. friend point out that we should have done that we have not done? Is an hour and a half's criticism to be devoted to saying nothing? What does he ask? Nothing. It was pointed out by the Treasurer that during twenty years twelve great license measures have been adopted and passed by this House and approved by the country. We cannot therefore go back to original principles, but must deal in matters of detail. It has been said more than once by, for instance, no less a person than the Rev. Dr. Carman, General Superintendent of the Methodist Church, and by the Secretary of the Dominion Alliance, Mr. Spence, that they do not ask legislation which has for its aim the mere harassing and hampering of the hotel men, so long as their business is licensed by the Government and their money goes into the revenue of this Province. If, then, that question is laid aside, the question of merely irritating and harassing the license-holders, what has my hon. friend pointed out that we have done which we ought not to have done, or left undone that we ought to have done? I do not say there are not some things which have been asked for by the Alliance and by other temperance bodies that we have not included in the bill, but I say that my hon. friend has not taken the responsibility of saying what they are. Notwithstanding his de-

claration that there are no politics in this question, my hon. friend has not had the courage to stand up and say upon what particular lines they want further legislation, but he has only indulged in general and vague talk, and asks the country to take it for granted that he wants more stringent temperance legislation. (Applause.) How different from the plain statement made by Sir Oliver Mowat; how different from the plain statement made by the humble individual (Mr. Hardy), who gave the other answer which my hon. friend has quoted.

Mr. Marter's Futile Criticism.

Now, I shall leave to others the opportunity, if they think it desirable, of following my hon. friend. I rise for another purpose, and propose to deal with the proposition around which my hon. friend has, so to speak, cavorted. That other purpose is to show that there has been no breach of faith, no broken pledges, by the Government. (Applause.) He has taken every attitude; he has contradicted every proposition that he himself laid down. He has proved the reverse of everything that he has stated in the nature of a proposition by the quotations which he has read, and by his own declarations. I have heard no more futile attempt to discuss the merits of a license bill, or as to what was contained in the promise of Sir Oliver Mowat or myself. There is no dispute as to whether or not, generally speaking, there were politics in the convention to which the hon. gentleman has referred. No one has said, that I am aware, that politics entered into the discussions of the convention of 1893, generally speaking. Far from it. But if I were to make any reference at all to that matter I would point to the action of my hon. friend from North Toronto (Mr. Marter), and my hon. friend from West York (Mr. St. John), who stood alone, who had no one at their back, and if politics took any part at all in that convention they came from my hon. friend who has addressed the House this afternoon, and from my hon. friend who was then on the point of seeking the suffrage of West York. I do not need to discuss that. No one has accused the convention of having political motives or purposes. They met for the one purpose of dealing with the question of prohibition, in whole or in part, not of restriction, not of license law in any shape or form. They repudiated restriction and

license law, and the quotation read by my hon. friend shows that they wanted naught to do with restriction or with license law, but had met for the purpose of dealing with the greater and more important question, namely, total or partial prohibition, and they refused to lower their demands upon the Government by dealing with restriction or license law.

If it were not for my own record and my own statement I should not need to traverse in any sense the ground my hon. friend has gone over on that point. Happily, I say, there is no dispute as to what Sir Oliver Mowat said: "If the decision of the Privy Council should be that the Province has the jurisdiction to pass a prohibitory liquor law as to sale, I will introduce such a bill at the following session, if I am then at the head of the Government. If the decision of the Privy Council is that the Province has jurisdiction to pass only a partial prohibitory liquor law—no question of a mere prohibition, no question of a license law—I will introduce such a prohibitory bill as the decision will warrant, unless the partial prohibitory power is so limited as to be ineffective from a temperance standpoint."

What was his proposition? As I say, happily there can be no dispute as to his words. There has been an attempt to misrepresent the language, by some honestly and by some dishonestly. There has been a bold attempt by political opponents to misapply, to misinterpret and to misconstrue his language. I maintain that his language is plain and direct and deals with prohibition wholly or partially only, and has no reference to the license law, and I undertake to establish this to the satisfaction of this House and the country at large. It needs, perhaps, as my hon. friend says, some reference to the events of that time, and I must ask the forbearance and patience of the House if I weary them a little in going over the ground.

Mr. Marter's Bill.

What was the situation? The hon. member for now North Toronto had introduced his partial prohibition bill in 1893. It was a measure to prevent the issue of all shop or tavern licenses or their renewal or extension within the Province. It was, therefore, a partial prohibition bill—prohibition as to retail. The Government of Sir Oliver Mowat had taken ground against it, Sir Oliver stating that he thought there were grave doubts as to whether we had

that power ; but Sir Oliver very firmly stated that from his reading of the decisions of the Privy Council in *Hodge v. The Queen* and in other cases, if we had the power to pass a prohibitory bill as to retail we had the power to pass it as to wholesale ; that there was no valid distinction, that the distinction was a technical one founded upon our own statutes, and could have no value in fact when tested by the powers conferred on the Provinces under the Act of Confederation. What did the hon. member call his bill ? He has not read us that. In moving the second reading, what did he call his bill ? I read from *The Mail* : " He had no desire in introducing the bill to make capital for any party (he says the same to-day), but it was his desire to have some law on the statute books that would be efficient and effective." " He would, therefore, say to the Attorney-General and the hon. members that if the bill was allowed to go to committee he would in committee be prepared to assent to any reasonable amendment that would be calculated to make the bill more stringent and effective." Dealing with Sir Oliver's remark as to wholesale licenses that was his proposition. " Strong resolutions were passed condemning the liquor traffic (speaking of the convention), the pith of which was that nothing short of prohibition would satisfy the people of the province. To abolish the liquor traffic would cause a greater amount of happiness than anything else the Legislature could do, but, on the contrary, to permit the traffic was to sanction the greatest cause of misery." Still talking of prohibition and stopping the traffic, " He was further advised by those learned in the law that this bill was within the province of the Legislature. He had been informed that they had not the right to deal with the wholesale traffic. The liquor license act that was now in force prohibited 399 out of 400 persons in Ontario from entering upon the actual sale of liquor. If they could do that why could they not prohibit the 400 from selling it ? Then, if the Province possessed the power to prohibit the traffic part of the time, such as on Sundays and Saturday evenings, he contended that it had the power to prohibit the traffic all the time." These are quotations from Mr. Marter's speech on the motion for a second reading of his bill in 1893.

I do not understand that my hon. friend denies now that his bill was a prohibition measure, a prohibition of the retail trade. My hon. friend asks what could the words in the latter part of Sir Oliver's promise refer to when he said he would give prohibition or partial prohibition to the extent of the jurisdiction of the Legisla-

ture. He asks what could it refer to if not the license Act. Why, sir, it referred to the partial prohibition of sale by retail and to local option, and no man who chooses not to shut his eyes and shut his ears could for a single moment doubt it. It refers primarily to the bill which my hon. friend introduced for the purpose of establishing partial prohibition, namely, prohibition of sale by retail as distinguished from the prohibition by sale by retail and wholesale. That is what Sir Oliver meant by it.

Now we go a little further. What were we dealing with when the delegation came to ask questions? What was the purport of Sir Oliver's answer? At what was it aimed? To what did it refer? Let me for a moment read you a few extracts from decisions of the courts as to the construction, interpretation and application of language used upon particular occasions. In *King v. Hall*, 1 Barnwell & Creswell, at page 136, it is said by Abbott, C.J.:—"Now the meaning of particular words in Acts of Parliament as well as other instruments is to be found in the subject or occasion on which they are used, and the object that is intended to be attained." That is the first canon of construction. In *River Wear Commissioners v. Adamson*, 2 appeal cases, it is said by Lord Blackburn at page 736:—"It is impossible to know what that intention is without inquiring further and seeing what the circumstances were with reference to which the words were used, and what was the object appearing from those circumstances which the person using them had in view, for the meaning of words varies according to the circumstances with respect to which they were used." In *Edinburgh Street Tramway Company v. Torbain*, 3 appeal cases, it is said by Lord Blackburn:—"But then the words again are to be understood by looking at the subject matter they are speaking of." In *Hodge v. The Queen*, 9 appeal cases, 117, it is said at page 129:—"These observations should be interpreted according to the subject matter to which they were intended to apply."

Prohibition or License Law.

There can be no question, sir, as to what the true canon of the interpretation of an expression is. What was Sir Oliver replying to? What had he in view? To what did he refer? To what did the delegation call his attention? What had transpired at the convention? What was the convention asking. It would have been folly for Sir Oliver Mowat to have undertaken to make a statement

broader than that which they required, on so delicate and important a subject. It would have been folly upon his part to have gone outside of that and to have dealt with a subject which the delegation had not come to consult him about at all. Therefore he confined himself in his remarks to the question of total or partial prohibition. Indeed there was involved the question of local option as partial prohibition. I think it was in 1890 or 1891 that this House passed the clauses drafted by the eminent counsel for the Alliance, the local option clauses. A case had been brought before the Divisional Court to quash a by-law as unconstitutional a by-law passed by the Township of South Norwich. Chief Justice Galt, before whom it was brought, had held the clauses unconstitutional. This was in 1891. The case had been carried to the Supreme Court; it had been argued once, but so doubtful was the Supreme Court about it that they called for another argument, and ultimately it was decided by a majority of one that the law was constitutional. Therefore this question was before Sir Oliver at the time as another question of partial prohibition; so that the partial prohibition referred to related to a question of a prohibition of sale by retail and the question of our power to pass local option clauses. What did the convention do? My honorable friend has read you that—quite to the destruction of his argument.

The Delegation's Resolution.

What was the resolution of instruction to the delegation which waited upon the Government? What did it say? The resolution finally adopted by the convention was as follows:—"That a deputation be appointed to wait forthwith upon the Ontario Government and respectfully request them to declare *in favor of total prohibition of the traffic* in intoxicating liquor to the full extent of the power vested in the Legislature." There was an able and vigorous discussion upon that resolution. How can any man who was at that convention, and who saw or heard discussed that resolution, and who knows what other resolutions were submitted and were voted down, pretend to apply Sir Oliver's language to anything else than the prohibition which the convention had instructed the delegates to demand from Sir Oliver Mowat and the Government? Gentlemen can only do it because they have forgotten, or because they have not recently read the proceedings of that convention. Gentlemen of honor and integrity—and they are all gentlemen of honor and integrity—who come orward and state that Sir Oliver referred to anything else

than prohibition or partial prohibition does so only because they have forgotten what took place or have not read the proceedings recently. If there had been any doubt about its meaning an amendment was moved by no less a distinguished temperance man than the member from West York (Mr. St. John). He was under the protecting wing of my honorable friend (Mr. Marter), who was his companion, philosopher and guide at the time.

What was his resolution which did not pass? Here is what the paper says:—"Moved by Mr. St. John, seconded by the Rev. T. H. Orr"—another most respectable gentleman—"that a deputation of this convention be appointed to wait forthwith upon the Ontario Government and request them to declare now in favor of the *restriction and prohibition* of the liquor traffic in the Province of Ontario to the full extent of the power vested in the Legislature, and that they will use all diligence in speedily ascertaining such power." (Hear, hear.) What was the result? In the words of the report, the resolution was "absolutely and overwhelmingly defeated."

Mr. St. John—Are you aware, sir, that the reason it was defeated overwhelmingly at that convention was that the mover and seconder of the resolution said it was wholly embodied in their resolution?

The Attorney-General—I have heard a great many men who profess to voice public opinion, but I have never before heard one willing to say he knew precisely what the 1,400 men who snowed under his resolution had in their minds in voting on a moral question bristling with points. There was a fierce argument upon the question. That point had probably no more to do with it than other arguments that were used. It was because they did not like the resolution; they did not think it was a wise resolution, and they did not wish to deal with restriction. I will show you the reasons why, perhaps, in a little while, they voted that down "absolutely and overwhelmingly," as it is reported. Let us see what some of the leaders of the convention thought, what some of the reasons were that they gave why they would not have what my honorable friend desired, namely, that the delegation should deal with restriction. The Rev. Dr. Kettlewell is a most excellent man, a very able man, a man truly in earnest in temperance matters, differing somewhat, however, from the programme of the Alliance. I believe his is the programme which the Good Templars put forward, and this is one question³ to which I draw your attention. The Alliance had one programme and the Templars had another; the Templars say, do away with the bars and stop treating; that is principally what they

asked. The Alliance has a programme, I think, of some twenty-four propositions, five of which they principally insist upon. They are gentlemen for whom I have the greatest respect, men who devote their lives to the cause of temperance and other great moral questions. Mr. Kettlewell said:—"What I want to see done is an issue made"—something of a philosopher in the matter. It was not perhaps this bill or that, but the raising of the issue that he was desirous of—"the getting of a law passed is a secondary matter, for the peculiarity of prohibitive legislation is that enforcement is of more value than the terms of the law; therefore what is the great desideratum is to have a Government that is a prohibitionist Government, that is committed to prohibition principles, that will enforce with a will any prohibition measure that may be enacted. What I wish the convention to do is to approach the Government and endeavor to get it to declare itself prohibitionist"—nothing about restriction. This is one of the gentlemen, the Chairman, who waited upon the Attorney-General.

My honorable friend urges that Attorney-General Mowat's language meant restriction and had reference to the license law, when the convention from which he came and at which he was present and heard the question discussed, when the resolution moved by the honorable member for West York was voted down so overwhelmingly, when every speaker of rank who stood upon the floor, except my honorable friend and his colleague, took the ground that it was prohibition in whole or in part that they were after and in no sense restriction under the license law. My honorable friend of North Toronto, in his speech, quoted Mr. Kettlewell's argument and, instead of helping him, it absolutely overwhelmed him. Mr. Kettlewell continued:—"What I wish the convention to do is to approach the Government and endeavor to get it to declare itself prohibitionist."

Dr. Maclaren's Remarks.

What said Dr. Maclaren, of whom my hon. friend has spoken, another great light of the temperance movement? Here are his words: "I think the convention should send a deputation to interview the Government and to ask them to declare for prohibition in so far as it may turn out that they have the power to enforce it." Again, Mrs. Thornley, who has also been quoted, said that "what they were after was the total prohibition of the liquor traffic." It will be observed that the one question referred to by the speakers was prohibition, or so far as the Legislature could go in that direc-

Mon. And then Mr. Spence took up the discussion. Mr. Spence, as we all know, is an authority upon temperance matters. There was no more potent voice in the convention than that of Mr. Spence. "All present were agreed to send a deputation to ask the Government to declare for total prohibition to the full extent of the powers with which the courts declared it endowed. He wanted a prohibition policy not tied down to narrow limits. *He wanted no restrictions, but prohibition.* The day for restriction was gone. They wanted to see the Government make a straight, clear, decided declaration that they would give prohibition as far as they could go." And there were others. These were just a few of those who spoke upon that question. Now, can there be any doubt as to what the deputation came to the Attorney-General to say and as to what the Attorney-General replied? Can there be any doubt as to what the Attorney-General's answer referred to or what he was aiming at? We find that they were introduced by Mr. Davis, then M.P.P., and is there anything in his remarks about a license law? Not a word. Mr. Kettlewell, who was introduced, spoke to the Attorney-General, and was there anything referring to the license law or restriction? Not a word. Mr. Spence then read the resolution. Dr. Potts was then asked by the Chairman to speak. Addressing Sir Oliver and his colleagues, Dr. Potts said that the majority cast for prohibition in the plebiscite was sufficient to impress anyone with the magnitude of the movement which that deputation were representing. They represented a convention of 1,400 men and women; there were men in the room from nearly every county in the Province. The moral purpose for which this great force is working, he said, must be crowned with success, and they thought they had arrived at a period when they could ask the Government to crystalize into law the reforms they were advocating. "And I would like personally to congratulate you," he proceeded. "upon being Prime Minister of the Province at this time. (Applause.) While it is a grave responsibility resting upon you, it is a golden opportunity for you, with the support of the majority of 82,000 people, to declare for prohibition." Mrs. Thornley followed in the same fashion, and then followed Sir Oliver's speech, and afterwards the few remarks which I made. Sir Oliver's remarks are too long for me to read, but there was not one word in them which touches the license law, and there was no reason for touching the license law. The nearest approach was when he said this, in concluding and before he read the paragraphs formerly quoted :

"As soon as a decision is reached by the Privy Council, at the first session thereafter, if the Privy Council decides that we have jurisdiction to pass a prohibitory law for the sale of intoxicating liquor, and I am still Premier, I will introduce a bill for that purpose. (Great cheering.) *In case we have authority for a partial prohibitory law, it is difficult to say anything, because we cannot anticipate what the power may be.*" That is still dealing with partial prohibition, and not with a license law. But if there was anything said which touched, or bordered upon, or which might by any inference or implication be construed as referring to a license law, that is the statement.

Let us see a little further what the situation was. In 1893, as I mentioned, the bill of the hon. member for North Toronto was before the House, the plebiscite was ordered and the vote had been taken and immediately thereafter, and before the delegation waited upon the Government, the case had been made up and had been submitted to the Supreme Court. What were the questions? I am arguing now entirely in reference to what Sir Oliver was aiming at, and was anxious for. I am drawing the attention of the House wholly to the questions which the convention had discussed, which the delegation were discussing, and which Sir Oliver was answering. Here are the questions submitted to the Supreme Court:

"(1) Has a Provincial Legislature jurisdiction to prohibit the sale within the Province of spirituous, fermented or other intoxicating liquors?

"(2) Or has the Legislature such jurisdiction regarding such portions of the Province as to which the Canada Temperance Act is not in operation?

"(3) Has a Provincial Legislature jurisdiction to prohibit the manufacture of such liquors within the Province?

"(4) Has a Provincial Legislature jurisdiction to prohibit the importation of such liquors into the Province?

"(5) If a Provincial Legislature has not jurisdiction to prohibit sales of such liquors, irrespective of quantity, has such Legislature jurisdiction to prohibit the sale, by retail, according to the definition of a sale by retail, either in statutes in force in the Province at the time of Confederation, or any other definition thereof?

"(6) If a Provincial Legislature has a limited jurisdiction only as regards the prohibition of sales, has the Legislature jurisdiction to prohibit sales subject to the limits provided by the several sub-

sections of the 99th section of The Canada Temperance Act, or any of them (Revised Statutes of Canada, chapter 106, section 99)?”

Where is the license submission there? Where is the question of license touched in any one of these questions? The other one relates to local option and to the Canada Temperance, or Scott, Act, and as to the issue of druggists' licenses, and is as follows:

“(7) Has the Ontario Legislature jurisdiction to enact the 18th section of the Act passed by the Legislature of Ontario in the 53rd year of Her Majesty's reign, and intituled ‘An Act to improve the Liquor License Acts,’ as said section is explained by the Act passed by the said Legislature in the 54th year of Her Majesty's reign, and intituled, ‘An Act respecting local option in the matter of liquor-selling’?”

No Pledge Broken.

Here is what Sir Oliver was discussing; here is what the convention was discussing. In the light of these questions which had been submitted to the court, Sir Oliver was giving his answer, and in the light of these which, and in the light of that the delegation had been instructed by the convention to do. Who can, therefore, in the face of men of intelligence, pretend for a moment that we have been false to our pledges, or that we have made any pledge which we are violating in any sense because we do not turn a license bill into a prohibition bill, and attempt to screw up the License Act into what might be called a partial prohibition Act? (Cheers.) I repudiate in the strongest language which I am capable of, that there has been a breach of faith or of pledges. Gentlemen who make charges, persons who send in petitions to that effect do so in ignorance of the facts, perhaps without argument and without having studied the ground upon which they make these accusations; and I venture to say that when they come to hear the discussion and to know what has been done and said and thoroughly to understand our position and their position and the position of the convention they will regret as long as they live that they have hurled these imputations at the Government. A Government which has endeavored in the past and in the present to give a good license law and to enforce it by all the power which it has at its disposal. My hon. friend spoke of Sir Oliver's absence and observed, “I wish we had Sir Oliver here.” Of course he knows Sir Oliver is not very likely to be here, and, therefore, the wish is a perfectly safe one. Sir Oliver's views are not different from my own.

Mr. WHITNEY.—How do you know?

The ATTORNEY-GENERAL.—I will give my hon. friend all he wants to know about Sir Oliver Mowat and his opinions on the matter. If we have not Sir Oliver here in person we have his own declaration upon the point. (Applause.) I read you his letter:

Sir Oliver's Letter.

OTTAWA, March 24th, 1897.

MY DEAR PREMIER,—I do not know whether your temperance Bill this Session goes as far in the direction which temperance people desire as it would be practicable for you to go at present, but I concur in what I notice you have said as to the nature of the pledge given to a deputation in February, 1894. I agree with you that the pledge had exclusive reference to a prohibitory law, and had no reference to a license law. License law amendments were not under our consideration, nor (as we understood) under the consideration of the deputation. I recollect that in settling the terms of the draft memorandum prepared for the purpose of being read to the deputation on behalf of the Government, one or more of you suggested a slight change in the wording in order to prevent, as was thought, any possible misapprehension on that point. Most of us regarded the meaning as clear enough in the draft, but as the change of expression was suggested I think it was made. What this verbal change was I do not now remember. The memorandum as read was in the terms which we had all agreed to. What was being pressed on our attention at the time was a prohibitory law, and the questions which had been submitted to the Judges were as to the power of Provincial Legislatures to pass an absolutely prohibitory law, of which the prohibition of selling by retail is an example. Some thought the province had power to prohibit sale by retail and not sale by wholesale. I am clear that none of us supposed that we were understood by the deputation to be giving any pledge with respect to a license law. The amendments which your Bill proposes to the license law, and the further amendments which temperance organizations may desire, ought to depend upon their merits and not on any alleged pledge on the part of your Government. (Great applause.)

I am, yours very truly,

(Signed) O. MOWAT.

The Hon. A. S. HARDY,
Attorney-General and Premier,
Toronto.

I think, sir, if anything were wanting to close the mouths of our accusers that we are false to Sir Oliver's record, that we are false to his promises or to his declaration at the time when he was the

spokesman and the centre and principal figure, his own declaration alone would convince every candid mind as to what was the intention, what the object, what the aim, and as to the purport of the pledge which Sir Oliver gave upon that occasion.

The Evening Session.

After recess the Premier resumed:—I pointed out before six o'clock, Mr. Speaker, an array of facts, of records beyond dispute, leading, as I contend, to the conclusion that the alleged pledge of Sir Oliver Mowat had no reference to the license laws, but had relation wholly to that which the convention was discussing, discussing to the exclusion of license questions—prohibition; or, as the convention put it, total prohibition; as Sir Oliver and Mr. Marter put it, total prohibition or partial prohibition. I pointed out that the Marter Bill was a prohibition measure, that it precluded the issue of licenses; that its object and aim was not to restrict under or by the issue of licenses and the payment of license duties, but that the object was to cut off all licenses for sale by retail, and its author intimated that he would be willing to go the length of including wholesale licenses if Sir Oliver or the House was of opinion that the Legislature had power. It was, therefore, as I have said, and as he treated it, a partial prohibition measure, an anti-license measure, wholly and exclusively, beyond question and beyond doubt. The then leader of the Opposition (Mr. Meredith), however, who desired to support the measure, endeavored to make it out not a prohibition measure, but a measure in a sense relating to licenses over which we had control. He founded his opinion that the Bill was *intra vires* on the judgments of the Lower Canada courts. But the decisions which he quoted were not upheld. They were judgments of comparatively inferior courts, and no great question such as this, involving momentous issues not less in the enforcement than in the enactment of the law, could be determined by the isolated decisions of inferior courts in another province. I followed up the action in relation to the Marter Bill, and referred to the proceedings of the convention, which almost unanimously pronounced against sending a delegation to the Government to discuss license measures, and in favor of sending a delegation to discuss prohibition, and prohibition only. Further, that the resolution of the hon. member for West York, which proposed that restriction should be included and that they should not confine themselves to prohi-

bition alone, was voted down by an "overwhelming majority." The delegation, upon proceeding to discuss the matter with Sir Oliver Mowat, made no allusion to license measures or to anything but prohibition. That the questions which Sir Oliver Mowat referred to, and which had been submitted to the courts, related wholly to prohibition, and not to licenses, and from these incontrovertible facts we drew the conclusion that Sir Oliver's answer had relation not to license law, but wholly to prohibition, and we followed it up with the production of the letter from Sir Oliver Mowat himself, who said that it had no relation to license or license law, that his answer related wholly to prohibition in whole or in part, and that the memorandum was drawn advisedly—not advisedly in the sense that he so understood it himself, but that all his colleagues so understood it, and that it related only to prohibition in whole or in part, and not to a license law.

Some say that license means partial prohibition. In the abstract possibly, but there is a wide difference. A license permits, legalizes the sale. Prohibition prohibits. A license says the sale shall be lawful. Prohibition says that every sale is unlawful. They are as wide as the poles asunder. They are at the opposite extremes of the poles, and men who talk of license law as partial prohibition law in this connection as being of the same confuse terms and forget their logic. A license is license to sell; prohibition is prohibition against sale. There is the distinction. And it does not do to take popular language or the language of the platform and place it in an Act of Parliament. You would only have confusion worse confounded. If you deal with license you must speak of license, and you must remember that you license to sell and authorize sale, and in that case you protect them in their sale and take their money for the use of the State for the permission to sell. If, on the other hand, you prohibit you say they shall not sell under pains and penalties of a very severe character. Restriction, as the convention of 1894 very properly understood, and as the convention said was one thing and prohibition another thing.

The Privy Council.

I have but one point more on that branch of the case to refer to, namely, the judgment of the Privy Council. Let us see what Sir Oliver said: "If the decision of the Privy Council should be that the Province has the jurisdiction to pass a prohibitory liquor

law as to sale, I will introduce it." Let the most vigorous advocate of the theory that we made pledges that we are now violating take the judgment of the Privy Council and point out where and when that court has decided that the Province has jurisdiction to pass a prohibitory law as to sale; and if the court has not so decided, then there can be no violation of pledge because there would be no pledge in existence; and yet through every part of the country, without looking at the judgment of the court, but assuming to speak with authority and knowledge, some persons—some of the best men and some of the best women—having seen it stated in the paper or elsewhere that there has been a violation of pledges, assume it to be true and formulate resolutions or petitions founded upon that assumption. Let us see further if there could be any violation of the pledge. Unless there was a decision of the courts that we had that power to prohibit the sale, there is no pledge that has been broken, because the condition of the pledge has never happened. Did the learned Judges treat license and prohibition as one? No. They were not dealing recklessly with the question; they were dealing as Judges with judicial minds, bound to probe the question to the bottom and to use accurate terms. It cannot be found in the answer to any question that they find that we can prohibit the sale wholly, or that we can prohibit the manufacture or that we can prohibit the importation. That answer is not given to any one of these questions. Over and over again the convention has so stated, the Good Templars have so stated, and every delegation since the judgment has so stated. Where is the breach of pledge if the court did not decide that we have the power to prohibit the sale? Sir Oliver said: "I will introduce a bill at the following session, if I am at the head of the Government." We take the responsibility, we were parties to that pledge. (Applause.) We were parties to drawing the declaration, and we stand by it, and we will not be driven from it because people tell us in a moment—I think sometimes of recklessness—that we have violated our pledge. I leave my hon. friend to gather up the fragments as he did and hurl all the harsh expressions across the floor of the House that he could gather up from meetings and from resolutions and petitions. But these opinions were founded upon error—they had not examined the pledge which they quoted or the position which led up to the pledge. I do not need to pursue this branch of the case any further. If I have not convinced all who hear me, I am afraid it

is because they have preconceived opinions, and it is hard to remove preconceived opinions.

Fulfilling Pledges.

Just another matter to which I wish to allude before sitting down; that is, my own statement to the delegation from the Alliance in July last. Happily there is no room for cavil or dispute as to what that statement was—that we were a temperance Government, that we could not go backward, but would go forward as fast as our jurisdiction would permit and public sentiment would clearly warrant. I say there is no shrinking from that pledge either. What is public sentiment? What is our jurisdiction? There is not now much question about our jurisdiction. The Judges were not called in their judgments to deal with the license question. It had been solved. Therefore how could Sir Oliver Mowat be referring to it as to what they were to decide. That argument would be conclusive to a Judge upon the bench. But public sentiment, that of course is a very uncertain quantity. Looked at by different men it may not appear the same, but it cannot mean that the Government and the Legislature are to have no voice in determining what public sentiment is. It cannot mean that because a convention assembles, however respectable, however patriotic, however devoted to the cause of temperance or of good morals, however devoted to the cause of Christianity and religion, it cannot be said that they are to say precisely and alone what public sentiment is for those who are to legislate upon the question. It cannot be said that those who are to legislate are to have no voice in determining what public sentiment is. That perhaps is where we differ. I have pointed out more than once that it is easy to arrive at a conclusion where all are of one view and of the right view; it is easy under such circumstances to meet and frame a programme, yet perhaps not so easy after all, because hon. members well know who have been at such conventions that there is a difference of opinion there as well as elsewhere. I pointed out before that of the two great delegations which waited upon us when we were framing this Bill, one took the view laid down in the programme of the Alliance, the other thrust it aside. They were led by eminent men—Rev. Mr. Kettlewell, representing one branch of the temperance wing of the people of this country, supported by able men, Mr. Buchanan, Mr. Lees and others. They wanted something else, the abolition of bars and the treating system, and they claimed to be in advance

of the programme of the Alliance, and perhaps they were. Although if it is true what we learn from Halifax and Nova Scotia, where that system is in force, in a small city of between 30,000 and 40,000 inhabitants, with 84 places where they sell liquor openly without regard to the law, perhaps it is not so much in advance either. All these are questions of judgment, and public men and legislators are bound to bring their judgments and consciences to bear upon these matters, and no man is to be at liberty to say, "we will make a programme and you must accept it just as we lay it down." With the greatest respect for the men and women who assist in framing these resolutions, I say we must ourselves be the judges in the last resort of how far we can go and what public sentiment will warrant, and go no further than what the people demand and can be enforced. They have frequently quoted, and very properly, the large majority in favor of the plebiscite. While it was a very significant vote, it does not show precisely what would have been done if the question had been submitted to the country, mixed up with other questions, with all those questions which a Government is bound to consider. If it be said otherwise let me refer to one or two cases. In Hamilton, not longer ago than June last, in a city which gave an overwhelming vote in favor of the plebiscite, two excellent men, Mr. Buchanan and Mr. Watkins, a very able man and of the highest character, came out as representatives expressly of temperance views and sought the suffrages of the people of Hamilton. Compare the vote which they received with the vote in favor of the plebiscite.

Their vote was a mere fragment of the total vote polled, and we must look at that as well as the vote in the affirmative for the plebiscite. In South Wentworth a few months preceding that, what happened? Mr. Buchanan claimed that he came out expressly as the representative of the advanced temperance views. Temperance men eminent in their sphere, eminent in every walk of life, flocked to his assistance, and what was the result? He polled but a fraction of the vote which was polled by the hon. member for South Wentworth. You must, therefore, I say, look things in the face; you must look at them as you find them, and when you find, in dealing with the temperance question, along with all the other questions which go to make up the functions which the hon. members of this House are sent here to perform, you must see precisely what bearing the general questions, the political questions, and all other questions, have when they are submitted along with the temperance

question pure and simple. Few good men like to go to the polls and vote "nay" on the question of the abolition of the liquor traffic. Few good men will prefer to go to the polls and say "I am in favor of perpetuating the liquor traffic." On the other hand, many men who strongly favor prohibition, will halt and say, "I do not know if we can enforce it." Certainly, if it is to be but a partial prohibition; if the distilleries and breweries are to run on at full blast; if they are to continue to send out their vast output in this Province, what can partial prohibition do? It would be difficult to enforce. It is doubtful, and many good men doubt, how far it would be in the interests of the public. Each may have his own view. In Maine they abolish the manufactory. They abolish in whole or in part importation; and so in other States of the union. This we would not have power to do, and so long as the distilleries are running at full speed, and the breweries running to the extent of their capacity, it would be a very difficult thing indeed to enforce a law which writes only partial prohibition upon its banners.

Now, sir, I think we need not go further. I think the two propositions, at all events the one proposition, which I started out to establish, namely, that Sir Oliver Mowat, in dealing with this question by what is called his pledge, had no relation to a license law, or to its amendment, and that my own pledge, which related exclusively to a license law, left the question of public sentiment to be ascertained, not by one man or one convention alone, or by those of one view alone, but that the legislators of the country must ultimately act as the judges to what extent public opinion demands that a license bill shall go, and whether its demands will allow anything more stringent than the bill which we have had the honor to lay before you in its amended form. (Applause.)

Copies of this speech may be had from Alexander Smith, Secretary Ontario Liberal Association, 34 Victoria St., Toronto.